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Message:

Please forward to the office of Examiner Josiah Cocks.

Thank you,
Applicant Bill Velke

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In re Application of
(Patents/patent new8/resp1)

:PATENT APPLICATION

WILLIAM H. VELKE

:METHOD AND DEVICE TO IMPROVE
:THE RATIO OF OXYGEN MASS VERSUS
:FUEL MASS AT IGNITION IN
:COMBUSTION MECHANISMS OPERATING
:WITH FLUID HYDROCARBON FUELS

Application No.: 10/798,292

Art Unit: 3749

:Pending

Examiner

:Josiah Cocks

VIA FAX: 703 – 872-9306

RESPONSE TO OFFICE ACTION – CONFIRMATION No: 6440

Re: Election / Restrictions, Detailed Action dated 11/16/04

December 23, 2004

Campbellville, Ontario, Canada

Hon. Commissioner of Patents and Trademarks

Washington, D.C. 20231

Sir:

Applicant is advised that Claims 1 to 26 of the above stated Applications are rejected.

Applicant respectfully disagrees and is of the opinion that the Examiner is in error when citing prior US Patent No: 6,736,118 as a reason for rejection under 35 U.S.C. 101, double patenting.

Examiner should consider the correct status of this Application, which is a Divisional of Patent 6,736,118, or its related Application 10,293,357, and is properly identified as such on page 1 of the subject Application, below the Title.

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35 U.S.C. 121 DIVISIONAL APPLICATION provides the following rule.

If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title, it shall be entitled to the benefit of the filing date of the original application. A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such requirement, shall not be used as reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application.

As the filing date of the subject application precedes the issuance date of Patent 6,736,118, and as the divisional application 10/798,292 was filed in accordance with the instructions by the Director, Applicant is of the opinion that the Examiner is therefore in error when citing US Application 6,735,118 as an objection.

When referencing the Office file of US Patent 6,736,118, the Examiner will find the Director's request for a division of invention, under which Applicant has filed the subject divisional application and has suitably identified it as to said relationship.

Applicant nevertheless has amended the Claims in order to overcome some of the other possible objections cited by the Examiner. Applicant has attached the Amended Claims pages for replacement of the original pages.

With regard to the filing date of application 10/798,292 which is indicated by the Examiner as 03/12/04, Applicant respectfully draws attention to the 35 U.S.C. 120 rule, which states that a divisional application shall be entitled to the filing date of the parent application, such filing date being November 14, 2002.

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Art Unit 3749

Applicant is of the opinion to have herewith responded as required, and the Examiner is now able to move this Application to allowance.

Signed this 23rd day of December, 2004,



William H. Velke

Applicant

Attachment: Amended Claims